1: Evans-Pritchard E-5 (1931, 1936) 1940
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233 561 cribing the relations of men to their cattle, for the change from boyhood to manhood is most clearly marked by a corresponding change in those relations at initiation.

233 621 Small local groups pasture their cattle in common and jointly defend their homes and herds. Their solidarity is most evident in the dry season when they live in a circle of windscreens around a common kraal, but it can also be seen in their wet season isolation. A single family or household cannot protect and herd their cattle alone and the cohesion of territorial groups must be considered in the light of this fact.

233 581 The network of kinship ties which links members of local communities is brought about by the operation of exogamous rules, often stated in terms of cattle. The union of marriage is brought about by payment of cattle and every phase of the ritual is marked by their transference or slaughter. The legal status of the partners and of their children is defined by cattle-rights and obligations.

233 421 Cattle are owned by families. While the head of the household is alive he has full rights of disposal over the herd, though his wives have rights of use in the cows and his sons own some of the oxen. As each son, in order of seniority, reaches the age of marriage he marries with cows from the herd. The next son will have to wait till the herd has reached its earlier strength before he can marry in his turn. When the head of the household dies the herd still remains the centre of family life and Nuer strongly deprecate breaking it up, at any rate till all the sons have married, for it is a common herd in which all have equal rights. When the sons are married they and their wives and children generally live in adjacent homesteads. In the early part of the dry season one sees a joint family of this kind living in a circle of windscreens around a common kraal, and in the big camps formed later in the year one finds them occupying a distinct section in the lines of windscreens. The bond of cattle between brothers is continued long after each has a home and children of his own, for when a daughter of any one of them is married the others receive a large portion of her bride-wealth. Her grandparents, maternal uncles, paternal and maternal aunts, and even more distant relatives, also receive a portion. Kinship is customarily defined by reference to these payments, being most

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2:Evans-Pritchard E-S (1931, 1936) 1951
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CHAPTER III

MARRIAGE

I

/2/ I HAVE suggested in the last chapter that the range of the Nuer incest taboo can be understood only in relation to their rules prohibiting marriage between kin. These in their turn are only intelligible when viewed as part of the kinship system to which they belong, and that kinship system derives its particular form from its function in the political structure of the Nuer.

Kinship is a general word for describing any relationship of one individual to another through his father or mother. All kinship ties thus derive from the family, that universal and fundamental social group which everywhere and in some way or another incorporates the institution of marriage. It is therefore partly for logical reasons that I describe first how matrimonial unions are brought about among the Nuer and discuss the kinship relations which derive from them later. I describe marriage and kinship in this order also partly for convenience, in that kinship among the Nuer is so largely defined by reference to bridewealth.

I describe in this first section relations between the sexes before marriage, and in the following sections the chief ceremonies by which marriage is brought about, the payments of bridewealth which together with the ceremonies create valid and durable unions, the affinal relations which arise from the unions, and the various forms of domestic union we find among the Nuer side by side with matrimony in the full legal sense.

/31 /31 Sexual activities are from their earliest manifestations given the stamp of cultural values. They are from the first associated with marriage, which is the final goal of the sex life of men and women. Even the very poor and the disabled form domestic establishments of some kind and talk proudly of 'my father-in-law' and 'my mother-in-law'. It is the chief ambition of a youth to marry and have a home (*gol*) of his own, for when Nuer speak of marriage they speak of a home. They say of a youth: 'He is married—he has a *gol*.' Even in childhood it is clear to Nuer that marriage and the birth of children are the ultimate purpose of the sexual functions

2:Evans-Pritchard E-S (1931, 1936) 1951
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to which all earlier activities of a sexual kind—play, love-making, and courtship—are a prelude, a preparation, and a means.

So long as there is no erotic behaviour in public, no inhibitions attach to sexual interests and their expression, and no one tries to hide from children the facts of sexual life, which they can learn by observing their elders and the flocks and herds among which childhood is spent. A boy who is seen by his elders in sexual play with a girl of his own age will merely be told not to act as though he had been initiated—he can do what he likes then—and at the most might receive a cut with a grass switch. No one considers his conduct immoral, and the older people will joke about such things among themselves.

Children start playing at marriage from the time they begin to walk, at first as uncomprehending observers of the games of older children and then as participants in them. They make cattle byres and huts of sand, and mud oxen and cows, and with these conduct bridewealth negotiations and perform marriage ceremonies, and they play at domestic and conjugal life, including sometimes in the game, I was told, imitation of coitus. In its earliest expression, therefore, sex is associated with marriage, and the first sexual play occurs in imitation of one of the domestic routines of married life. It occurs in response to a cultural, and not to an instinctive, urge.

Girls and boys, the girls rather earlier than the boys, begin to perform the simpler and lighter tasks of household and kraal from about the age of seven. From then onwards till they are about fourteen, marriage games continue when the children are by themselves, and though within them sexual play begins to be indulged in for its own sake and not merely in imitation of adult behaviour, it is subordinate to the whole make-believe relationship of conjugality of which it forms a part. During the rainy months the girls visit the boys in the grazing grounds, bringing them balls of porridge as presents, which each gives to the boy she has chosen as her 'husband'. She also milks the goats for her 'husband' and may even bring him a gourdful of cow's milk from the kraal. The boys cut millet stalks in the gardens and after roasting and eating the immature grain send the sweet stalks with their outer husks removed to their 'brides'. Older boys also send their juniors with meal cakes and cows to one of the senior girls, who plays the part of mother-in-law. I was told that in these games sexual intercourse may take place, but is neither a usual nor a prominent feature.

582 One reason why this sometimes happens is that a man's sweethearts are frequently of his own age and Nuer usually marry girls younger than themselves. The prohibition on marriage to the daughter of a father's age-mate also influences a man's choice of a wife. Nevertheless, it is probably more usual for a man to choose
●[581] one of his sweethearts. Marriage is the purpose implicit in every romance.

584 Sometimes a girl herself makes a proposal of marriage. She goes with some companions of her sex to the kraal of her favourite and drives away several of his father's cows to her home. Her father knows what she wants when he sees her returning with the cows, and if he disapproves of the youth he will send them back. If he likes the young man he says nothing, and when several days have passed and the cattle have not been returned, the young man knows that the girl's people are willing to discuss the matter. A father does not care to refuse his daughter when she is very much in love with a man, even when he is not rich, in case she runs away from home or hangs herself. Another way in which a girl can make a public proposal of marriage is a custom of early dry-season camps. Youths of a camp take their favourite oxen to parade them, led by their younger brothers, round a neighbouring camp, while they chant poems behind them and make graceful leaps into the air (*rou*). A girl who loves a youth may on such an occasion seize his ox and remove its lead. By so doing she pledges the youths to return to a harp-dance on another day. She keeps the cord and attaches a metal ring to it. Its owner later sends a small brother to fetch it. This is tantamount to a proposal and acceptance of marriage, and if the young man has enough cattle the betrothal ceremony takes place soon afterwards.

831 The facts outlined in this section lead to two conclusions: that
581 there is wide sexual freedom before marriage, and that sex life is from the beginning stamped by cultural interests. Apart from rules of incest, adultery, and good form, there are no checks placed on the expression of sex from its earliest manifestations. Nevertheless, even at the outset the compass is set towards marriage and children. Simulated coitus between children is part of a game of domestic and marital relationships. After initiation, young men make love to girls as much as they can, but though there is much casual intercourse it is considered rather gross, and the aim of both youths and girls is to form attachments of the lover-sweetheart

2:Evans-Pritchard E-5 (1931, 1936) 1951
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kind, in which coitus, when it takes place at all, is only part of a more complex relationship. The lover-sweetheart relationship has within it the purpose or pretence of marriage. Very likely a particular courtship will not develop into marriage, but courtship is the recognized prelude to matrimony, and if a youth wants favours from his sweetheart, he must persuade her of his intentions. A love affair tends, therefore, to be a marriage courtship, and for this reason the pattern of the husband-wife relationship in the first stage of married life intrudes into it, and the pair act towards one another with the conjugal reserve of this stage. So strong is the cultural idea of marriage that, though devoid of irksome restraint and inhibitions, the path of sex life runs from childhood towards that union and, though circuitous, leads always to wedding, home, and family. Marriage is the end of a full sex life. After he is married a man settles down to care of herds and gardens, and goes less and less to dances, and ceases to take much interest in girls. I was told that should he wish to have an affair with a girl his wife would have no objection and would probably help him in it. Women, on the other hand, once they are married, ought not to have relations with men other than their husbands.

Men now expect to marry younger than in the last generation, when, I was told, a man would not usually marry before he was 25 to 30. Fathers were wont to say that they would themselves marry again, for these young wives would in any case go to their sons when they were dead. At what age a youth marries today depends on the size of his family, his place in it, whether his father is dead, the size of his family herd, and other circumstances.

As a rule, girls marry round about 17 or 18, though one sometimes sees an unmarried girl of over 20. If a girl is betrothed early the wedding and consummation ceremonies are delayed. Women, therefore, have their first children at an age when they are well fitted to bear them. So long as a girl is married to a man with cattle she has fairly free choice of a mate. Much depends on whether the girl's family approve of the man's family. In theory, the parents choose their daughter's husband and only formally ask her consent, which she should give in duty to her parents, for marriage is not her business but the business of her menfolk. In fact, it is very difficult for parents to force their daughter to marry a man she dislikes, and strong-minded girls stand up against family pressure on this issue.

2:Evans-Pritchard E-5 (1931, 1936) 1951
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581 602 approbation and censure, which give stability to marriage and security to the family that derives from it. Divorce is due to failure of one or other of the parties to live up to the code of conduct expected of him or her, and Nuer regard it as a misfortune in which there is also an element of the shameful.

581 602 Conjugal and affinal relations are personal relationships which require adult adjustment that is not easy. A Nuer regulates his behaviour to the persons around him through kinship values of one kind or another. Owing to the extensive area of kinship covered by Nuer marriage prohibitions, a man cannot marry into a family or lineage with whom he has already close kinship ties. He must therefore marry the daughter of people who are under no obligation to provide him with a wife or, indeed, to assist him in any way. This means forging new social links which by their nature cannot at their inception be of a kinship order. Nuer bridewealth payments are thus complementary to their marriage prohibitions.

Eventually affinal ties are, by slow degrees, transformed, as Nuer themselves say, into kinship ties. The birth of a child gives the wife kinship with her husband's people and the husband kinship with his wife's people. They say that *mugh*, in-law relationship, becomes *mor*, kinship. Bridewealth payments may therefore 583 602 be viewed as a technique for creating new social relations between persons between whom there are no well-defined patterns of behaviour and for maintaining them. They are one of the many ways in which gifts and payments are used for this purpose, and have this function, in primitive societies. Bridewealth may thus be thought of as providing a kind of social scaffolding, a temporary structure of behaviour patterns, which enables the union to be built up. It ceases to be of any great significance once the new family is firmly established after the birth of the second child.

The payments do not so much give stability to the union of marriage as they are a recognition of its stability. The parents do not accept a suitor unless they are satisfied that he has the qualities of a good husband; and I have shown how the marriage is slowly formed through a series of ceremonies and rites, each marking a stage in the transference of the wife from her own people to her husband's people. Each rite is an acknowledgement that the marriage is a little more stable and complete and compels further payments, which are both an expression on the part of the husband's people of a sense of security and a means of bringing about

MARRIAGE

581 The ordinary Nuer marriage is a union such as we understand matrimony to be in our own civilization, with this difference perhaps, that the Nuer do not consider the union to be complete till a child is born to it. As we have seen, a Nuer union of this kind is instituted by payment of cattle and the performance of nuptial ceremonies. It is to this type of union that I refer when I speak of marriage without qualifications; and when I use the word family in an unqualified sense I refer to the partners to such a union and the children born to the wife in the union (but not necessarily begotten by the husband). However, since the terms marriage and family are also used in this book in a qualified sense to refer to other unions and groups, I sometimes speak of a simple legal marriage and a simple legal family to avoid confusion or to point a contrast.

585 When a man marries two or more women there results a complex legal family, which we call a polygamous family, in which are comprised several simple legal marriages with the male partner the same in all of them. I discuss some of the features of polygamous marriages and families in the following chapter. They present no immediate difficulties.

582 What seems to us, but not at all to Nuer, a somewhat strange union is that in which a woman marries another woman and counts as the pater of the children born of the wife. Such marriages are by no means uncommon in Nuerland, and they must be regarded as a form of simple legal marriage, for the woman-husband marries her wife in exactly the same way as a man marries a woman. When the marriage rites have been completed the husband gets a male kinsman or friend or neighbour, sometimes a poor Dinka, to beget children by her wife and to assist, regularly or when assistance is particularly required, in those tasks of the home for the carrying out of which a man is necessary. When the daughters of the marriage are married he will receive for each a 'cow of the begetting' and more beasts if he has played any considerable part in the maintenance of the home. We may perhaps refer to this kind of union as woman-marriage.

A woman who marries in this way is generally barren, and for this reason counts in some respects as a man. She acquires cattle through the marriages of kinswomen, including some of those due to uncles on the marriage of a niece, or by inheritance, since she counts as a man in these matters. A barren woman also often

[Ref. cut 16, pp. 12-14. -- Pupil]

2:Evans-Pritchard E-5 (1931, 1936) 1951
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called, is likewise paid to the genitor of daughters born in widow-concubinage, and if he acted also as foster-father to the bride and her brothers and sisters—'cut meat for them', as Nuer say—he may receive another two to four head of cattle of her bridewealth for having fostered the family. Also, when the daughter of his natural daughter is married, his legal son can claim a beast of the bridewealth. As I have explained, an adulterer may receive a cow on the marriage of his natural daughter, though I doubt if it is often paid.

There is no 'cow of the begetting' when the daughter of an unmarried concubine is married because the genitor by payment of a fee has made himself the pater also. The cattle of the father' go to him. As he is not the husband of the mother, 'the cattle of the mother', or some of them, may go to different kraals, because the bride's mother's sons have rights in them, and they may have been begotten and legitimatized by other men. For all these different cases I have stated only the principles of distribution of bridewealth. As I have explained earlier, actual distribution may be more complicated and depends on variable conditions. Among the Nuer these matters are discussed always in the idiom of cattle.

When a woman is married—that is to say, in all the cases we have considered except that of unmarried concubinage—division of the bridewealth of her daughters is determined by payment of bridewealth for herself. The person in whose name she was married with cattle is the pater of her children whether he begat them or not, was dead or alive at the time of her marriage and the birth of her children, or is a man or a woman. Hence it follows [60] that agnatic descent is, by a kind of paradox, traced through the mother, for the rule is that in virtue of payment of bridewealth all who are born of her womb are children of her husband and therefore paternal kin, by whomsoever they may have been begotten. They may count as children of a man their mother has never even seen. They may have been begotten by several fathers, but they all 60.2 have the same pater. It is the fertility of the womb which a lineage 60.3 receives by payment of bridewealth. All children born of that 60.1 womb belong to the lineage; they are all agnates. This is a profoundly significant fact in Nuer society. It affects, among other things, the position of the family group in the kinship and lineage systems. The custom by which men in ghost-marriage and levirate marriage raise up seed to their kinsmen subordinates the

2;Evans-Pritchard E-S (1931, 1936) 1951
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exclusive interests of the family to those of the wider circles of the paternal kin and of the lineage. The prevalence of widow-concubinage and simple concubinage also strengthens sentiments of kinship, because there is in these cases no single undivided family, both legal and domestic, to demand a man's major allegiance at the expense of the solidarity of the wider kinship group which provides a boy with scope for his deepest interests and ambitions.

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4: Evans-Pritchard E-5 (1931, 1936) 1968 F322 Nuer F322
[98]

NUER MARRIAGE CEREMONIES*

E. E. EVANS-PRITCHARD

581 585 431 MARRIAGE among the Nuer is brought about by payment of bridewealth and by the performance of certain ceremonial rites. The rites cannot take place without the payments, but transfers of cattle do not by themselves bring about the union. Both are necessary and they proceed in a connected movement towards the full establishment of the union. Each enforces and reinforces the other. The bride's people can, by holding up the rites, put pressure on the bridegroom's people to make the payments due to them, and the bridegroom's people can, by withholding the cattle, induce the girl's family and kin to advance the ceremonies. First one pedal is pressed down and then the other so the marriage is propelled to its appointed end, the birth of children and the sharing of a home. It is understood that payments should have reached a certain point before a certain rite is held, and the performance of the rite is a recognition of the transfer of cattle up to that point. Payments of cattle and marriage rites therefore tend to alternate, though there is no fixity about the alternation and no marriage is exactly the same as another in this respect. The new social ties of conjugality and affinity are made stronger by each payment and by each ceremony, so that a marriage which is insecure at the beginning of the negotiations becomes more secure with every new payment and rite; both sides, by the giving and receiving of cattle and by joint participation in the rites, becoming more deeply committed to bringing about the union. Therefore a marriage which has reached the final rites may be regarded as a stable union and will generally prove to be so.

Some General Features of the Ceremonies

584 585 574 The chief ceremonies are the *dowing*, the *agar*, and the *mut*: the betrothal, the wedding, and the consummation. All three are important public events in Nuer life, though the betrothal rites are not held on so large a scale as the west of the Nile as to the east. Preparations for them are made days, even weeks, ahead, and they are talked about, especially by the young people, long before they take place. They are usually held in the rains, for there is then plenty of millet for porridge and beer, and people have the energy of the well-fed and can travel long distances without fatigue and dance and make love with equal vigour. A whole district attends them, young men thinking nothing of walking over ten miles to take part in the dancing, the mere coming together of so many people making marriage a memorable event. Neighbours then bear witness to the creation of the new social ties and by their presence sanction them.

Neighbours form the crowd at marriage feasts. They have no direct concern with the union. Apart from these people who attend the ceremonies for dancing and

* This description of marriage ceremonies which I have seen, some of them many times, when living among the Nuer of the Anglo-Egyptian Sudan, is part of a general account of Nuer marriage, some sections of which have already been published. *Some Aspects of Marriage and the Family among the Nuer*, Rhodes-Livingstone Institute, 1945. (Not published in 1936 in the *Sudan Notes and Records*.) and "Nuer Bridewealth," *Africa*, vol. xvi, no. 4, 1946. The sociological and political background is given in *The Nuer*, Clarendon Press, 1940.

586 asked what would happen were he to try to do so
586 I was told that the husband's kin would claim
583 back their cattle and, if necessary, use force to
431 obtain them. Should a wife leave her husband
in these circumstances the problem of bride-
[587] wealth would probably be solved by the common
Nuer expedient of having her live as a concubine.

I think it is evident, in view of the facts stated
583 above, that the fear of having to repay bride-
431 wealth cannot be said to be a very powerful
591 sanction of the marriage union. Nor is there
593 any evidence of which I am aware that would
suggest that the greater the number of cattle handed
over the more stable the marriage is likely to
prove. On the contrary the poverty of a suitor
may be to his advantage since the parents of the
girl whom he seeks in marriage can insist, and
often do so, that he comes to live in their village,
where they will receive constant aid from him
in herding, fishing, building, and hoeing, and the
transition to their lineage of both the son-in-law
who comes in course of time to identify his interests
with those of his in-laws, and of his children,
who would otherwise, with their daughter, be
lost to them. A reputation for hard work, courage,
and an amiable character go a long way towards
making up for poverty of stock, especially if the
father of the girl and the father of the youth are
friends or the youth and the girls' brother are
comrades.

• 581 I am prepared to say definitely that the stability
593 of Nuer marriage rests on quite other foundations
than payments of bride-wealth. It is founded on
affection between the spouses, mutual goodwill
between the families of husband and wife, and
moral and legal norms. Nuer girls are not easily
coerced into marriage and it is generally safe
to assume that when a woman lives with her hus-
band it is because she chooses to do so and is
happy in her marriage. By the time a girl is fully
married to a man she knows him well. Usually
he has courted her some time before asking
for her hand and she must give her consent
before his request is granted. She has plenty of
time between the betrothal ceremony and the
ceremony of consummation in which to withdraw
from the marriage should she be reluctant to

[p. 185a]

581 complete is and yet more time between the consummation and the birth of a child. I do not
583 say that pressure may not be put on her by her family to accept her husband but parents who try to ensure their daughter run the risk that she will run away to the house of a distant kinsman and there sleep with some man. They may lose their bridewealth. Nuer have good grounds for their assumption that a newly wed who has borne her husband a child and brought it to his hearth is satisfied with her state. By the time a second child is born experience has shown that the pair are agreeable to one another also as domestic partners. As the Nuer observe a weaning taboo this comes about three years after the birth of the first child.

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581. Mutual goodwill between the families is also
606 necessary condition of a successful marriage.
593 Marriage is not only a conjugal relationship but also a set of affinal relations and it can be stable only if the kin on both sides behave towards the other side in the manner expected of them. This they endeavour to do. A man tries not only to live up to the pattern of what the Nuer regard as a good husband but also to be a good son-in-law and his wife's father and mother try to be good parents-in-law to him. The relatives on both sides also try to behave towards those on the other side as persons standing in those relationships should do. It is the evocative and inhibitory action of these moral values, sanctioned by approbation and censure, which give stability to marriage and security to the family that derives from it. Divorce is due to failure of one or other of the parties to live up to the code of conduct expected of him, or her, and Nuer regard it as a misfortune to which there is also an element of the shameful.

582 Conjugal and affinal relations are personal
602 relationships which require adult adjustment that is not easy. A Nuer regulates his behaviour to the persons around him through kinship values of one kind or another. Owing to the extensive range of kinship ties covered by Nuer rules of exogamy it is impossible for a man to marry into a family or lineage with whom he has already existing kinship ties. He must marry the daughter of people who are under no obligations to provide

B;Howell E, G-5 (1942-1944);1954
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marriage of Duk's daughter Nyalith, Mazer got a cow (*yang nuongnuer*) and a cow-calf (*guandow*). Ring was by that time dead, but his wife Nyalith received the remainder of the *guandow* cattle—the cattle of the paternal uncle—on behalf of her son Biliu, then a minor: a cow, an ox and a bull-calf. On the marriage of Ring's daughter Nyawar, the *ghok guandow*—a cow—and the *nuongnuer*—a cow-calf—were given to Mazer again as heir to Gatluak, then dead with no issue. Duk objected to this and, as a payment, seized the cattle held by Nyalith (received on the marriage of Nyalith) for her son. Nyalith then took the matter to court and demanded the transfer of the cattle received by Mazer on the marriage of Nyawar, to Duk, so that Duk would give her back her cattle. Court dismissed the case on the grounds that—

(i) Mazer, as heir to Gatluak, has a right to the *nuongnuer* and *guandow* of Nyalith. Duk cannot receive these cattle for the marriage of his *own* daughter.
(ii) The dispute is strictly between Nyalith and Duk.
But (iii) it is a purely family matter which they must settle themselves, because Nyalith is living with Duk in levirate union, he has no male heirs, and all his cattle will anyway go to Biliu to whom Duk is paternal uncle.

6. THE LEGALITY OF MARRIAGE

General Principles

583 581

From an analysis of the social and ritual processes of marriage and of the transfer of bridewealth cattle from one group to another, there emerge certain legal principles which are relevant to a study of Nuer law as administered in the courts today:

(i) Apart from the social and ritual processes, the performance of which not only gives stability to marriage but emphasizes the degree of agreement reached at any stage, the key to the legality of a union lies in the transfer of cattle from one kinship group to another on behalf of an individual. The individual thereby obtains rights in his wife which are domestic, economic, and procreative. Even though these are sometimes assumed so far as domestic and economic rights are concerned, they are never assumed in situations where the legal status of the children is concerned unless cattle have been transferred.

(ii) Therefore, in any dispute which concern bridewealth, the return of bridewealth, or rights in the distribution of bridewealth, reference must be made to the individual on whose behalf cattle were transferred. Whether he be alive or dead, he is the nuclear point from which legal discussion must start, and the rights of others are determined by their relationship to him in the kinship structure or the relationship created by marriage. At a later stage, when children are born of the union, all parties concerned become linked through the position of the children in the kinship structure of both sides.

We have seen that, although marriage is still precarious and does not necessarily achieve a high degree of stability until a child is born of the union and the bride takes up her abode permanently with her

8:Howell E, G-5 (1942-1944)1954
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husband, at a certain stage in the proceedings she acquires not only social status as married woman and wife but also legal status. It is at this point that the bridegroom becomes legal husband of the woman.

It is, however, sometimes difficult to determine the exact point at which this occurs. The problem is best examined in reference to wrongs in relation to the woman, and perhaps best exemplified in cases of adultery, for a man cannot claim damages in such a situation unless he is legal husband of the woman concerned. There is in fact considerable variation on this point in Nuerland, and it has become a controversial subject in cases which arise between individuals of different tribes, now brought together through the agency of the courts. Clearly it is ultimately the amount of cattle paid to satisfy the claims of the bride's relatives which determines the legality of a union, but this cannot be expressed as a rigid rule, for an equal number of cattle is not and cannot be transferred in all marriages, and the period over which they are paid is variable. This is particularly true today when there are less cattle in relation to population than before, because to insist on full transfer of bridewealth in one transaction would mean endless delay in collecting bridewealth, and this is not acceptable either to the bridegroom, who is impatient for his bride, or to her family, who wish to use the bridewealth cattle for their own marriages. The legality of marriage therefore finds expression in the degree of agreement reached by the people concerned, this being reflected in each stage of the marriage ceremonies. Some tribes consider that acceptance of the cattle negotiated at the *tuoc* ceremony, and particularly at the rite called *yier nyal*, even if they appear totally inadequate when compared to the bridewealth ideal, amounts to legal recognition. Others consider that legality is established at the *nhaot* ceremony which follows, and certainly it is at this ceremony that the change of status of the bride from a girl (*nyal*) to a married woman (*ciek*) in relation to society as a whole is most clearly symbolized.[1] For the first time she is released from her family (*loiny deb*) and from parental care. For the first time she is introduced publicly into the home of her bridegroom (*noong nyal*) and physical consummation is recognized. Further, she is ceremonially shaved by her bridegroom's female relatives (*nuot*), and this not only has ritual significance in connexion with her fertility, but signifies, too, her acceptance as a married woman, her status being determined in relation to other women of the household and through

[1] It might be argued that the ceremony performed at the *tuoc*, when the bride is dressed in the clothes which signify a married woman, symbolizes a change of status from 'girl' (*nyal*) to 'married woman' (*ciek*). Presumably this is so among those tribes who consider that the *tuoc* establishes legal marriage. But it must be remembered that it is not so much her general status, as her status in relation to her husband and his kin which is important from the legal aspect, and this is only brought out at the *nuot*. The terms *nyal* and *ciek* do not clarify the problem, because a man will often refer to his affianced bride as *ciek-da* (my wife) at a very early stage in the proceedings, and the woman is often referred to as *nyal* long after the *nuot*.

8:Howell E, G-5 (1942-1944)1954
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581 them to all members of their group. These ceremonies are referred to generally as *muot nyal*, and many Nuer tribes consider that this is the point where legal status is established. In these tribes the first question asked at the opening of a legal case will be *'ce nyal mut'*, 'has the girl been shaved?', if the legality of the marriage is in doubt. Nuer assume that if the ceremonies have reached this stage, the girl's family have admitted the legality of the union, whether the cattle paid, in comparison with other marriages, are adequate or not.

581 672 As soon as the legality of the marriage is established, the legal husband or, in the case of 'ghost-marriages', his legal representative, who is the man who has married on his behalf, accepts liabilities in the woman's future behaviour. If she kills someone it will be he and his kinsmen who must pay compensation (*thang*), although her own family will undoubtedly assist them in such circumstances; if she injures someone, and this is naturally more frequent than homicide, it will be her husband who has to pay damages. Equally if she is killed or injured, compensation should be paid to her husband, and it will be his legal right to receive it, even if he is usually willing to hand over some of the cattle to her family. These rights are extended to his kinsmen, since his rights are always limited by the position he holds as a member of a kinship group, and in this strictly legal sense the wife must now be regarded as a member of his lineage rather than her own. Cattle have been paid for her; rights in her life have been transferred to those who paid the cattle. This issue is not often in question in disputes which appear before the courts, but, as already mentioned, it is often raised in disputes over adultery. The defendant will plead that the woman is not legally married (*kare kuen ke ghok*—'she is not married with cattle') and that he is only liable to her family. This is usually to his advantage because her family cannot claim damages for adultery; there can be no adultery if the woman is not legally married. They can claim damages for the seduction of an unmarried girl (*ruok dhu nyal*), but the number of cattle demanded is less than in adultery (*ruok ciek*).

Recent Legislation at the Nuer Chiefs' Council Meeting of 1945

581 The subject of the legality of marriage was discussed by chiefs from all parts of Nuerland in 1945. Opinion was divided, though it was generally agreed that in the past at any rate all ceremonies up to and including the *muot* should be performed before a man could safely claim all legal rights in his wife. The Eastern Nuer tribes, represented by the Jikany Dhoar, maintained that (i) a man has legal rights in his wife as soon as she comes to live with him and has left home with the permission of her family. Other Nuer tribes argued (ii) that it was the *muot* ceremony alone which was important, and that a

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woman is not legally married until this has been performed. In fact, there is no great difference in these opinions because in a normal marriage a woman's family will rarely allow her to take up residence with her husband until the *mast* has been performed. 581

Finally in this connexion, I must comment on a statement made by Professor Evans-Pritchard in his most recent book on the Nuer. He says:

> Most broken marriages occur during or shortly after the nuptial ceremonies. One cannot properly speak of divorce at this stage because in Nuer eyes marriage is incomplete till a child has been born. Thus till the birth of a child the wife is considered to belong to her own kin and not to her husband's kin is shown not only in her continuing to live with her parents but in other ways, most noticeably by the fact that the husband is held responsible for her death should she die in her first childbirth. He then has to pay compensation for homicide (*thung yiika*).[1]

The use here of the word 'incomplete' seems to me relative. If a 'complete' marriage is one which is legally indissoluble, then this condition is reached only at a much later stage when at least two, and probably three, children have been born. If it is 'complete' when the rights in the woman are legally transferred from her family to her husband, then this occurs much earlier in the proceedings, at some time between the *tuor* and *mast* ceremonies, and usually long before the birth of the first child. Nor does the wife necessarily remain with her family until the first child is born though it is usual for her to return to them to give birth to it, a custom which is common to nearly all Nilotic peoples. At this point and after it any outsider would have to pay *ruok ciek*, compensation for adultery with a married woman, which is payable to her husband, and not *ruok nyal*, compensation for intercourse with an unmarried girl, which is payable to her family. [684]

It therefore seems to me more correct to say that marriage is legally valid after the *mast*, is not dissoluble after the birth of two or often three children, and that the likelihood of divorce diminishes with the birth of each child, but I should not like to say at what point the Nuer consider it 'complete'. Finally it is incorrect to say that a husband will have to pay bloodwealth, *thung yiika*, should his wife die in giving birth to her first child. *Thung yiika* is an indemnity demanded only when the child is the result of an illicit union and is not applicable to the husband within the institution of marriage. I have already explained that a man is not liable to pay bloodwealth should he accidentally or intentionally kill his wife. Such a liability ceases as soon as bridewealth cattle have been transferred and the *mast* ceremony performed. This also applies to *thung yiika*, and the only circumstances in which a woman's family might justifiably demand it from 581 682

[1] Evans-Pritchard, *Kinship and Marriage among the Nuer*, p. 93.

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her husband is before the court and before he has met their claims for bridewealth, in which case strictly speaking the man is not her husband at all.

7. THE LEGITIMACY OF CHILDREN

Establishment of Legitimacy by Legal Marriage

Legal marriage is performed by the transfer of a number of cattle acceptable to the woman's family, and usually also by the performance of ceremonies and ritual observance. Children born of such unions are legally the children of the man who transferred the cattle or on whose behalf the cattle were transferred, and his rights in these children, and the rights which descend to his heirs, are valid and inalienable unless the cattle are returned. No conflict can theoretically arise, for a woman cannot have more than one legal husband at one time. Nor can any one of her children have more than one legal father or *pater*, though sometimes different children of the same mother may have different legal fathers. From the legal aspect, legitimacy brings to male children status and privilege as members of the legal father's lineage and the rights of inheritance from that father. They acquire rights in the cattle of the kinship group—rights which are determined by their position in the kinship structure; rights to cattle inherited and to cattle brought in by the marriages of females of that lineage. Female children provide a means by which cattle will be acquired by the lineage in the future on the normal principles of distribution of bridewealth (*ghok kwi gwandi*), and they further stand as a legal link between the lineages of the father and the mother, for the mother's relatives may also claim cattle from their bridewealth (*ghok kwi mandi*).

Thus the children of a simple legal marriage will belong to the legal husband by whomsoever begotten (for they may be begotten in adultery—which does not affect the legality of the marriage). In 'ghost-marriage' children are attached to the name of the man on whose behalf the marriage was performed, although in other respects their relationship to their physiological father (*genitor*) is normally the same as that found in simple legal marriage. The *genitor* is usually the principal heir to the *pater* by reason of the fact that he performed the ceremonies on the father's behalf, and also through normal rules of inheritance derived from their relative positions in the kinship structure of their lineage. It is probable that the children will be brought up in their *genitor's* household, and he is therefore also their foster-father. He may die, however, and his position will be assumed by his own heir.

Similarly, in levirate union or 'widow-concubinage' the status of the children is determined from that of their legal father, although he is dead. Their physiological father will have authority over them and rights in them derived from his relationship to their

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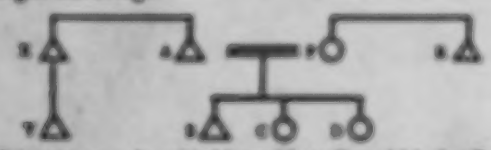
legal father, although, as we have seen, as *genitor* and foster-father he may acquire certain personal rights to cattle subsequently paid as bridewealth for daughters. These rights in bridewealth cattle, which are not in any case substantial, may be acquired whatever the circumstances, but it is clear that the greater the degree of coincidence in one man as heir to the *pater*, as *genitor*, and as foster-father, the closer the relationship between him and the children and the greater the rights he will hold. If there is a high degree of coincidence there will be no great need for an exact definition of rights.

In these circumstances the legitimacy of children in respect to the acquisition and inheritance of rights is clear. The law is logical and can always be carried to logical conclusions even though there is often a conflict in fact. It is obvious that there is an infinite variety of possible situations depending on the relationships within the kinship structure of the lineage of the persons concerned and the functions performed by persons outside the lineage as *genitor* or foster-father. For the purpose of illustration a number of such situations are recorded.

In Simple Legal Marriage



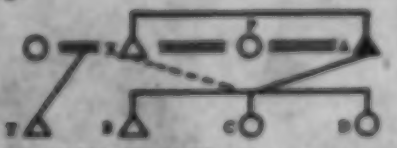
A married P by the transfer of bridewealth to B and his family.

(i) If all the persons recorded above are living, A, who is the legal father of B, C, and D, will be the link through whom their relationship to other members of A's family and lineage is traced, and A will be the point from which the distribution of the bridewealth of C and D will be determined.

(ii) If A is dead, the point of determination will be the same, but X, A's brother or, if dead, his son Y, will represent A, unless by that time B, A's son, has come of age.

(iii) It will probably be X (though it may be another brother or some more distant agnatic kinsman) who brings up A's children and will stand in the relationship of foster-father to B, C, and D, and as he is also A's heir until B grows up, he will perform most of the tasks of *pater*.

In 'Ghost-Marriage'



X married P on behalf of his brother A.

(i) Three children, B, C, and D, are born of this union. In this case A is legal father (*pater*) of the children and X is the *genitor*, but since X is also brother of A he will represent him as *pater*, and the distinction is not stressed.

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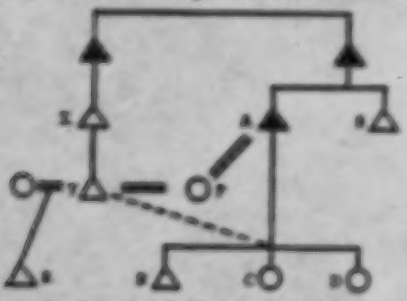
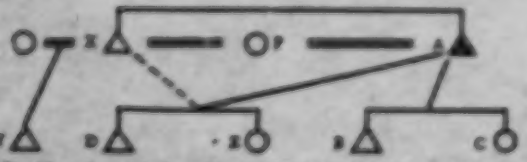
(ii) *House* in all matters concerning kinship obligations and inheritance, particularly in the matter of the bridewealth of C and D, A is the first point of determination in the kinship structure, and X, as his uterine brother and legal heir, comes next. X may expect the *pater*'s portion of the bridewealth, a portion which may be inherited by his son Y, though in some cases—depending on their relative ages—B may inherit these as well as claiming the brother's portion.

The position may not be so simple as this. For example:



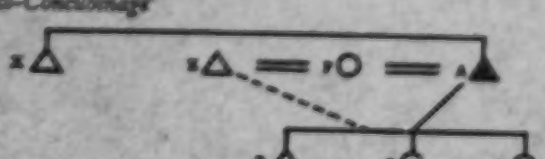
Y, one of A's less closely related kinsmen, marries P on behalf of A with cattle which he has inherited from A. Y is both *genitor* and *levirate-father* of the children B, C, and D, and as heir to A he can claim many of the privileges of *pater*. He would normally claim the *ghok gumnde*, the father's portion, on the marriages of C and D, though this will depend partly on the configuration of the lineage, since S or his heirs may have counter claims, but normally they could only claim the *ghok gwonor*, the paternal uncle's portion.

In Levirate Union



A marries P. She gives birth to B and C of whom A is both *genitor* and *pater*. A dies and P goes to live with A's brother X, who begets D and E. A remains *pater* of all these children, and they will all call themselves by his name. X is naturally foster-father of B and C and he is *genitor* of D and E. He is also *pater* to all four in the sense that he represents their interests and is legal heir to A, though here the future claims of A's sons will have greater emphasis than in 'ghost-marriage'.

In 'Widow-Concubinage'



A marries P but dies before any children are born. P goes to live with Z, a relationship which is recognized by X, who is heir to A. Z is the *law*

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or lover of P and has received the formal recognition of her late husband's kinsmen. These children are born, B, C, and D. All these remain legally the children of A, and their rights are determined from his position in the kinship structure, but X, as heir to A, performs all the duties of *pater*. Z is merely *genitor* and in this case *foster-father*. On the marriage of C and D, he cannot claim the father's (*genos*) portion, but he may expect to receive *yang leu*, which in this case may amount to two or three head of cattle since the union is a stable and agreed one. In such cases Z might be the *genitor* only while X brings the children up in his home.

The variety of circumstances in the examples given above is considerable, but all situations are not covered. The legal and sociological relationships of the members of a Nuer family are often a complicated matter. The family preserves the outward appearance of a simple legal union, and in day-to-day affairs the differences are not stressed. Analysis will, however, often reveal a complicated pattern and a variety of legal relationships which are relevant in the distribution of bridewealth, and inheritance.

The system may appear complex and sometimes confusing. It is not so to the Nuer themselves and, in a court session, even if the court members are not already aware of the relationships involved, a few introductory remarks and a few pertinent questions will give them a clear picture of the legal aspect of the case before them.

Disputes sometimes arise over inheritance and the obligations of kinsmen in the collection of bridewealth on behalf of others. Clearly in such cases the legality of an individual's position within the framework of the lineage is relevant. Sometimes the *pater* himself, or more often his heirs, refuse to recognize the claims of a legal son who has been brought up in the home of the *genitor*. Sometimes the *genitor* acquires cattle on behalf of his natural son and holds them in trust. At a later date he or his heirs may refuse to hand them over, which amounts to a breach of trust. Such disputes are not frequent, and in the past were usually settled because public opinion will always press for the fulfilment of kinship obligations based on legitimate relationships. The courts are now often called upon to intervene.

The Position of Children born of Unmarried Concubines

Children born out of legal wedlock are illegitimate,[1] and strictly speaking should be linked to the lineage of their mother's father. Sometimes their *genitor* will choose to legalize their position by marrying their mother with cattle, and usually her family will press him to do so, particularly if she is not *keagh*, in the sense of a woman who is unable to remain long with one husband, or has been married before

[1] I am aware that the use of the term 'illegitimate' may be challenged. Children born in wedlock are *legitimately* the offspring of their mother's legal husband; children born of an unmarried woman are *legitimately* linked to their mother's lineage.

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000 organization can be maintained, and in so far as Nuer courts operate today they are in fact a means by which it is maintained.

231 581 583 The multiple factors and circumstances which have bearing on a dispute over cattle cannot be summarized, but if the principles are understood it is easy enough to see the issues. Cattle provide the key to status within the kinship group and between two kinship groups when marital relationship is established. The payment of bridewealth cattle determines the legality of the union, and if this is not done, the legitimacy of the children can be made valid by the payment of fine in cattle. Disputes often arise over such matters, but it is rarely the legal aspect which is denied; it is rather that certain persons refuse to honour their legal obligations, and the court then enforces the law. As we shall see in the next part of this chapter, other cases arise over the return of bridewealth cattle in divorce and the dissolution of marriage, over the non-fulfilment of the obligations of kinship in the distribution of cattle, and from claims on the bridewealth of daughters, both by the mother's and the father's kinsmen. Disputes also arise over wrongs committed, violations of rights established in legal marriage, and the legitimization of children. Whether, in the settlement of the dispute before the court, the legal principles can be accurately and rigidly applied, depends on the circumstances. The law is not sufficiently exact to cover all situations.

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SOME ASPECTS OF MARRIAGE AND THE FAMILY AMONG THE NUER

I

Ordinary domestic life as we understand it in our own country—that is the living together of a man and a woman and the children begotten of the man and born of the woman—is based on the union of marriage. Such domestic relations we call the family. Among the Nuer the family in this strict sense is found side by side with other, and different procreative and domestic groups.[1]

Nuer marriage is a union instituted by payment of cattle by the bridegroom and his kin to the kin of the bride, and by a lengthy sequence of ceremonies. The bride remains in her father's home till after the birth of her first child and only then does she form a common household with her husband, and only then is the union reckoned complete. When I use the term "marriage" in an unqualified sense I refer to this type of union, and when I use the term "family" in an unqualified sense I refer to the husband and wife and children of the wife born in the union of marriage (but not necessarily begotten by the husband). The terms "marriage" and "family" are used in this paper, when qualified, to refer to other types of union and to other groups and, in contrast to these, I sometimes use the expressions "simple legal marriage" and "simple legal family" for the union and group described in this paragraph. Every male Nuer desires to contract a legal marriage for the children he begets are then legally, as well as physiologically, his own offspring and will be named after him.

II

If a man dies before he has married a wife, or if, having married a wife, she does not bear male children (even after his death), one of his kinsmen must marry a wife to his name. Daughters are not regarded as heirs, because a daughter becomes one of her husband's people and her children belong to her husband's lineage. Nuer say *Nyal, mo ram me gua* ("A daughter, that is an unrelated person"). If we wish to keep close to Nuer idiom and to appreciate rightly their understanding of this form of union we ought not to say that a man marries a wife to the name of his *dead*

[1] I have visited Nuerland on four expeditions. I spent just over a year there altogether. My first two expeditions were made on behalf of, and were financed by, the Sudan Government. My third and fourth expeditions were made as a Leverhulme Research Fellow. Further information about the Nuer will be found in the following papers: "The Nuer: Tribe and Clan", *Sudan Notes and Records*, 1933, 1934 and 1935. "The Nuer: Age Sets", *ibid.*, 1936. "The Nuer: Economic Life", *ibid.*, 1937 and 1938. "Daily Life of the Nuer in Dry Season Camps", *Custom is King*, London (Hutchinson), 1936. Since writing the present essay I published: *The Nuer: A Description of the modes of Livelihood and Political Institutions of a Nilotic people* (Oxford, Clarendon Press, 1940) and *The Nuer of the Southern Sudan* in *African Political Systems* (ed. M. Fortes and E. E. Evans-Pritchard) (Oxford University Press 1940).

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588 763 kinsman but that he marries his dead kinsman a wife. Nuer say of a man *Ce dimum bora ceŋ*, "He (*ce*) his brother (*dimum*) married (*bora*) a wife (*ceŋ*)" i.e. he married his brother a wife. This is a clumsy and ambiguous expression in English so I shall frequently speak of a man marrying a wife to the name of a dead kinsman. I ask readers to remember that it is not he, but the dead man, who is the legal husband.

The obligation to marry a wife to the name of a dead kinsman is invariably carried out when the dead man has any close kinsmen to interest themselves in saving his name from oblivion. No initiated male (*gaat*) should be allowed to lie in his grave unremembered in his children and Nuer say that if an uninitiated boy dies "*after* his testicles have fallen", that is, after he has reached puberty (*jaal*), he must be married a wife. They often state this rule by saying that a boy must be married a wife "after he has gone among the cattle" or "when he knows all about cattle" (*Ce puk ghak ŋaac*). I have even been told that a boy who has had his second lower incisors removed ought to have a wife, but in practice a small boy who dies is not married a wife unless he is a first-born son and then only if his ghost troubles his kinsmen in dreams or shows its displeasure by killing members of their families. It seems preposterous to Nuer that a dead man without heirs should not be married a wife and that a kinsman should not raise up seed to him. They always expressed great astonishment when I informed them that we do not have a similar custom, believing that no society exists which does not enforce so elementary an obligation of kinship.

588 768 ●581 When asked why they marry wives to dead men Nuer say that until a man marries and begets children he has not reached full manhood, and that a man desires children who will keep his memory green and to whom he can make his wants known in dreams. A ghost likes to think of people asking "Whose son is that?" and being told in reply that it is the son of so-and-so. Thus his name continues on the lips of men. They also say that if the kin of a dead man neglect to provide him with a wife he will haunt them. In my discussions with Nuer on this subject they almost invariably stressed anger of the ghosts as the sanction for their obligations to dead kinsmen. "The ghosts are bad and if you do not marry them a wife they will not spare you." A ghost will bring evil upon (*rieu*) the family of a man who fails to do his duty.

588 768 This is a vicarious marriage. The vicarious husband acts as though he were the true husband in the ritual that precedes and brings about marriage, and in domestic duties when he and his "wife" begin to share a home. In his physiological and domestic roles he is husband in all but the strict legal sense. In everyday usage people speak of him as the husband of the wife so that it is only by enquiring that one learns the man to whose name she was ceremonially espoused. Nevertheless, it must be clearly understood that the legal partners to the union are not the man and woman living together. The legal husband is the ghost in whose name the bride-cattle were paid and the marriage ritual performed. Moreover if we speak of the group consisting of a woman, her vicarious husband, and the children born of the woman and begotten of the man, as a "family" we

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husband towards them. One can only know by enquiry. In no way is their behaviour stigmatized as immoral. If a woman prefers to live as a concubine than as a wife that is her affair. Where they are in a worse position than a wife is that they cannot expect the same support from their kinsmen in disputes with their lovers as a wife can expect from her kinsmen in disputes with her husband. What a wife may demand as a right a concubine can only ask as a privilege. This disability is compensated for by the independence they enjoy. They are free to move as they please and to have love affairs whenever and with whomsoever they like. Those unmarried concubines whom I have known personally have been women of strong character who value their independence and do not desire matrimony. They refuse to be bullied by parents or husbands. Indeed Nuer realise that they are temperamentally unfit for normal marriage and consider that they are unlikely to settle down till they are old.

The main difference between a widow-concubine and an unmarried concubine is that a widow-concubine has had cattle paid to her kinsmen and these cattle are still "on her back" (*te ghok jokde*), as Nuer say, whereas an unmarried concubine has never had any cattle paid to her kinsmen, save those as a fee to affiliate her children to the lineage of her lovers. If she was once married her bride-cattle have been returned. *Koa e cak ne cuo ghok kuey jak puade,*" A *koa* is a woman from whose back cattle have been returned". When cattle are paid to make a child of an unmarried concubine the legal child of the man who begot him they are a legitimatization fee and not bride-wealth. The payment neither gives the father control over the mother nor a right to other children that she may bear by him or by any other man.

Sometimes instead of legitimatizing his child by payment of a fee a man marries the mother and, by payment of bride-wealth, not only legitimatizes the child but also any future children whom she may bear by him or by any other man. A *cak ma koa*, an unmarried concubine, then becomes a *cak paay*, a true wife. When a man marries a concubine he does not pay as many cattle as he would have done had he married her as a maiden. He is said to pay some ten to fifteen beasts instead of from twenty to thirty.

A man only marries a concubine when he is certain that she wishes to remain with him. For sometimes a girl becomes a concubine, not through unwillingness to settle down to married life, but because her parents have forced her to marry a man whom she detests and whom she has provoked to divorce her. A girl may even run away from home in despair when faced with marriage to a man she dislikes, and live with a lover in a different tribe. Some girls are betrayed by youths who have courted them and refused to marry them when pregnant, though, in my experience, this is very rare because a youth is generally glad to marry a girl who is in child by him. In this case the girl becomes a *koa* but she will not remain one, for she will be married to another man who becomes the pater and foster-father of the child though he is not the genitor. Men do not object to marrying young women who have borne a single child but they are unwilling to marry older women who have already borne several children.

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588 A man is content to pay a fee to obtain possession of any children he may
591 beget by an older woman. Nuer also often speak of a girl who has had a child by a youth who states that he is willing to marry her as soon as he has sufficient cattle, as a *kwa*, but no one would refer to her as such once the ritual of marriage has been performed.

589 We may speak of a man, the unmarried woman with whom he lives, and the children born of the woman and begotten and legitimated by the man as a simple natural family. The family which springs from widow-concubinage is a complex group in that all the members except the widow's mate are members of a different and legal family as well as members of the natural family, for the genitor can never pay a fee to legitimatize his natural children. When a man begets children by an unmarried woman there is no legal family in opposition to the natural family so that the position of genitor in relation to his children is much more secure. Although the woman is not married to the man we cannot deny the word "family" to this group because its members live together as a household on the pattern of the legal family, at any rate for some years. If the woman leaves him the position of the man is equivalent to that of a man whose wife has been divorced and whose bride-cattle have been returned except those left with her kin to legitimatize the children.

V

598 It is clear from what I have already recorded that Nuer do not attach
602 great importance to physiological paternity and that they are far from regarding bastardy with repugnance. Men prefer to beget their own sons but it is not ignominious to nurture children begotten by others. Nuer pay little regard to the manner of begetting so long as the legal parentage of the child is well established. Nevertheless, the links between a genitor and the child he has begotten is not a purely physiological one, even when the genitor is neither *nater nor foster-father*. The act of begetting creates a social relationship between genitor and natural son and they are bound to one another by a mystical tie. This relationship will be better understood later but it may shortly be illustrated here by a few remarks about adultery (*dhom*).

637 Yet another union which may result in the birth of a child is adulterous congress with a woman during the lifetime of her husband (or of her mate in ghost-marriage or leviritic marriage). Coming from a people (the Azande of the Nile-Congo divide) where adultery cases are very common at the present day, I was at once struck with the absence of cases, quarrelling, and even talk about the subject in Nuerland. Nevertheless, I believe that adultery is frequent both with married women who are travelling a long way from their homes and with women in their husband's villages. Nuer have often described to me how they have committed adultery and were not the least ashamed to talk to me about their adventures. They treat the matter light-heartedly. If you are caught in the act you may be speared or clubbed but if you are not caught in the act you can compensate the injured husband. They do not speak of adultery as though it was a highly immoral act but only as a risky and possibly expen-

11;Evans-Pritchard E-S (1931, 1936) 1945
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585 431 possibly three or four cows for having brought C ♀ to maturity, the cattle due to him as a father's brother and perhaps any cattle due to the grandparents X ♂ and Y ♀. In Fig. III when C ♀ is married the cattle of the parents go to D ♂, P ♂, Q ♂, and R ♂. Z ♂ gets the "cow of begetting", probably an extra cow or two of his services to the family, what is due to him as a paternal uncle, and, perhaps, any cattle due to the grandparents X ♂ and Y ♀. Some of "the cattle of the father" would be the portion of R ♂, and the "cattle of the mother" would be the portion of D ♂, P ♂, and Q ♂. In Fig. IV "the cattle of the father" and the "cattle of the mother" belong to D ♂, P ♂, and Q ♂, "the cattle of the father" belonging more particularly to D ♂, who alone of the children was begotten by their pater. T ♂, who is living with the widow and who has begotten by her two sons and a daughter (the bride C ♀) receives "the cow of begetting" and three or four head of cattle for having brought the family up. In Fig. V B ♀ is an unmarried concubine who has borne a son D ♂, and a daughter C ♀, to A ♂, who has paid legitimatization fees for both children. She then left A ♂, and went to live with P ♂, by whom she has borne a son W ♂. On C ♀'s marriage the cattle of the father belong to A ♂ and the cattle of the mother go partly to D ♂, and partly to W ♂. As A ♂ is pater to C ♀, there is no "cow of begetting". In the statements made above I give only the principles of distribution of bride-wealth. Actual distribution is often more complicated and depends on variable conditions.

VII

Before asking the reader to accompany me round a Nuer village to enquire into matrimonial and domestic conditions I would ask him to bear in mind in a summarised form the following main features of Nuer marriage:—

581 585 431 (A) It is payment of cattle which defines the exact status of each member of the various procreative and domestic groups to the other members of the same group, or, otherwise expressed, the status of each member receives recognition by payment of cattle. The man in whose name cattle were handed over to the kin of the woman at her marriage is the pater of her children, whether he lives or dies—even a woman who marries a wife being counted as the pater. The cattle of the father invariably go to him or to his heirs. Likewise the bio-sociological father in his various degrees of physiological and foster parent is recognised by payment of cattle, and payment of cattle legitimatizes children born out of wedlock. Nuer discuss all these relationships in the idiom of cattle.

611 (B) The position of pater is legally predominant. Through him even though he did not beget or even see them, his children trace their descent. They belong to his lineage and clan and share in all that traditionally pertains to these groups. From him they inherit. His herd is their birth-right and any cattle which would have been due to him had he been alive belong to them as his heirs. Whatever social or ritual status he may have had they may succeed to. Little though their relationship to their

12:Evans-Pritchard E-5 (1930-1931) 1933
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619 and Gaawir or between Lou and Gaajok. In Gaajok country I was
621 also repeatedly informed that there was *cut* between all Gaajok tribesmen,
682 but no *cut* between them and Gaagwong or Gaajak tribesmen. It is
629 true that tribes are not water-tight compartments. People moved all
[531] over Nuerland with remarkable freedom and there are strong social bonds
[619] uniting people with members of tribes other than their own, particularly
the bonds of marriage (there has always been interchange of daughters
between Lou and Gaajok, for instance) and the bonds of clanship (the
dominant elements in Gaajok and Gaajak tribes, for example, belong
to the same clan since they are all descended from the *dyoc* ancestor,
Kir. Also lineages of the same clan are scattered far and wide among
a dozen different tribes, but still recognise their kinship in spite of their
territorial disintegration). Nevertheless, the declarations of Nuer on
this point must have some significance, and I consider it well to record
my own impressions from their verbal statements, together with Mr.
Coriat's criticism. The point is important, but not overwhelmingly
619 so. What is of greater significance is that each tribe has its own tribal
624 officials who regulate disputes among tribesmen in so far as their ritual
functions allow them to do so. The Lou leopard-skin chiefs regulate
disputes among Lou tribesmen and Gaajok leopard-skin chiefs regulate
disputes among Gaajok tribesmen. In virtue of his sacred character a
leopard-skin chief (or land expert) can perform his ritual functions
irrespective of tribal boundaries, but in the nature of things one does not
summon a leopard-skin chief from Gaajok country to function in Lou
country, but each district of Lou country has its regular experts who
perform whatever services are required of them by fellow tribesmen of
their section.

67 (4) Tribesmen unite for defensive and offensive warfare against
721 other tribes and segments of other nations. Messengers summoned
648 Lou tribesmen from all over the tribal area for a combined raid on the
Dinka and those who wished to take part in the raid answered the sum-
mons. In such expeditions there was a truce to disputes within the
tribe itself and temporary tribal solidarity was attained. Mr. Coriat
points out to me, with some justice, that " it is incorrect to state that
the tribe is the largest political unit within the nation. Their history can
show many instances where two or more tribes have combined in common
offence and defence. As an example, Lou and Jekany against the Anuak,

14: Huffman M-5 (no date) 1931
FJ22 Nuer FJ22

kinds, and rings that she can acquire. She also bleaches her hair and wears several headbands of beads.

Some neighbouring young man may be the cause of all of this effort on her part.

During the fishing season the lover is neither idle nor silent in his efforts to win the regard of his bride. He may be at the same fishing camp as she is; if so, he carefully grooms his best ox, then adorns his body with all possible ornaments and, getting some one to lead his ox, they circle around the camp. He dances as he follows the ox and sings praises of his ox, himself, and his sweetheart in loud tones that may be heard for some distance. This performance may be continued for some hours, especially the singing.

Usually the young man knows when he is not repulsive to the girl. When he has her assurance that she loves him, his people take up the subject of the marriage price with her people. The girl's physical appearance and possibility of bearing children figure largely in the estimate of her desirability. Also her temper and ability to control it are considered.

A certain day is agreed on for the marriage talk. Then all the men who are interested on the bridegroom's side assemble at the village of the bride-to-be. Places have been arranged for the relatives of the bridegroom to sit on one side of an open area, facing the relatives of the bride who are seated upon the opposite side.

A stick with both ends curved in a scroll design is carried by the speaker and twirled in the hands as he walks back and forth between the two factions and presents his arguments. He also wears a loin-cloth, often the skin of a wildcat. Sometimes it happens that each speaker is not the possessor of a loin-cloth, so a quick change is made, as one speaker concludes his speech and another prepares to take his turn.